



Docket No.: 1087.1013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Bennett et al.

Group Art Unit: 2841

Serial No. 09/864,356

Examiner: R. Gibson

Filed: May 25, 2001

For: ARTICLE HANDLING SYSTEM

COMMENTS REGARDING STATEMENT OF REASONS FOR ALLOWANCE

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

A Statement of Reasons for Allowance was forwarded in the Office Action mailed February 12, 2004.

MPEP §1302.14 states, in part:

Where specific reasons are recorded by the examiner, care must be taken to ensure that statements of reasons for allowance (or indication of allowable subject matter) are accurate, precise and do not place unwarranted interpretations, whether broad or narrow upon the claims. The examiner should keep in mind the possible misinterpretations of his or her statement that may be made and its possible estoppel effects.

The reasons for allowance include descriptions and characteristics of selected items of prior art. It is submitted that such characterizations are not proper "reasons for allowance" as directed by 37 C.F.R. §1.104 and as explained in M.P.E.P. §1302.14. In particular, a discussion of the prior art is specifically identified as Example (F) of M.P.E.P. §1302.14 of a statement which is not a suitable reason for allowance.

Furthermore, the Examiner provides underlining in the Reasons. It is submitted that the use of underlining in the reasons for allowance is improper in that it provides certain emphasis which might "place unwarranted interpretations, whether broad or narrow, upon the claims" (M.P.E.P. §1302.14).

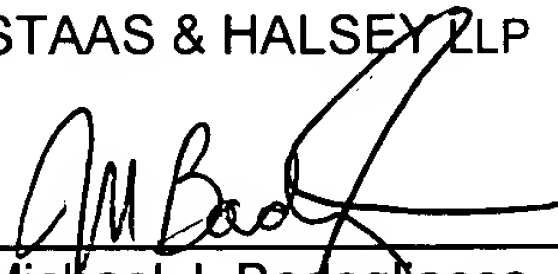
It is further submitted that the claims speak for themselves and should not be interpreted based on the Examiner's characterizations of same. It is also submitted that the claims provide their own best evidence as to the reasons for allowance.

In summary, it is submitted that the Examiner's Statement "raises possible misinterpretations... and possible estoppel effects" (M.P.E.P. §1302.14) and is therefore improper.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 10-12-04

By: 
Michael J. Badagliacca
Registration No. 39,099

1201 New York Ave, N.W., Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500